

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

ORDINANCE

An Ordinance Amending "The Code of Ordinances City of Lowell, Massachusetts", with respect to Appendix A Thereof Entitled, "Lowell Zoning Ordinance" by amending various sections.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOWELL, as follows

"The Code of Ordinances City of Lowell, Massachusetts", hereinafter called the "Code", adopted by the City Council on April 26, 1988, as amended, is hereby further amended with respect to Appendix A thereof entitled, "Lowell Zoning Ordinance", adopted December 7, 2004, as amended, as follows:

1. See attachment "A" annexed hereto and made a part hereof for the specific changes to the Zoning Ordinances.
2. This Ordinance shall take effect upon its passage in accordance with Section 1.7 of the "Lowell Zoning Ordinance" and the provisions of Chapter 43 and 40A of the General Laws of Massachusetts.

APPROVED AS TO FORM:

R. Eric Slagle
Assistant City Solicitor

Amend2006zoning

ATTACHMENT “A”
Amendments to the Lowell Zoning Ordinance
Updated July 25, 2006

Add to ARTICLE II: DEFINITIONS:

ACCESSORY DWELLING UNIT: An Accessory Dwelling Unit is a self-contained dwelling unit incorporated within or on the same lot as a detached single-family dwelling that is subordinate in size, use, and function to the principal dwelling unit on an owner-occupied lot.

AMEND ARTICLE V. DIMENSIONAL REQUIREMENT

SECTION 5.1 TABLE OF DIMENSIONAL REGULATIONS as follows:

Under SSF district, change MAX FAR to 0.35

Under TSF district, change MAX FAR to 0.35

Add new Section 8.4 as follows:

8.4 ACCESSORY DWELLING UNITS

8.4.1 Purpose and Intent:

The intent of permitting Accessory Dwelling Units is to:

1. Provide homeowners with a means of obtaining rental income, companionship, security, and services, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
2. Allow families the opportunity to house parents, siblings, children and other relations in need of special care or assistance;
3. Develop housing units in single-family neighborhoods that are appropriate for households at a variety of stages in their life cycle;
4. Protect stability, property values, and the residential character of a neighborhood.
5. Allow Accessory Dwelling Units while maintaining the appearance, structure and essential character of a one-family dwelling on the lot.
6. Ensure that Accessory Dwelling Units are properly regulated to protect the health, safety, and welfare of occupants and neighbors.

8.4.2 Use and Dimensional Regulations:

1. The Zoning Board of Appeals (ZBA) may issue an Accessory Dwelling Unit Special Permit authorizing the installation and use of an Accessory Dwelling Unit and the Building Commissioner may issue a building permit authorizing the installation of an Accessory Dwelling Unit and a certificate of occupancy authorizing the use of an

Accessory Dwelling Unit on a lot with an existing owner-occupied, Detached Single Family Dwelling only when the following conditions are met:

- A. The Primary Dwelling lot is located in a SSF, TSF, or USF District. In the USF district, a lot must be at least 5,000 square feet to qualify for the Special Permit.
- B. Only one Accessory Dwelling Unit can be created within a Detached Single Family Dwelling lot.
- C. The owner(s) of the Primary Dwelling in which the Accessory Dwelling Unit is created must continue to occupy at least one of the dwelling units as their primary residence.
- D. Any new separate outside entrance serving an Accessory Dwelling Unit is located on the side or in the rear of the building. Where there are two or more existing entrances on the front facade of a dwelling, if modifications are made to any entrance, the result shall be that one appears to be the principal entrance and other entrances appear to be secondary.
- E. Any exterior stairways necessary to access an Accessory Dwelling Unit on the second story or above must not be visible from a public way.
- F. The Accessory Dwelling Unit shall comply with all building, health, and safety codes for a dwelling.
- G. There shall be no enlargements or extensions of the dwelling in connection with any Accessory Dwelling Unit that create any new zoning violations on the lot.
- H. The building or buildings containing the Primary Dwelling Unit and the Accessory Dwelling Unit must comply with all existing zoning requirements except as outlined below.
 - 1) A preexisting non-conforming structure, protected under the provisions of Massachusetts General Laws, Chapter 40A Section 6, and Section 4.5 of this ordinance may apply for an Accessory Dwelling Unit, if and only if there no alternations will be deemed under Section 4.5.5 to increase the nonconforming nature of said structure.
 - 2) The lot need not comply with the 'lot area per dwelling unit' requirement in Table 5.1
 - 3) For the 'minimum useable open space per dwelling unit' requirement in Table 5.1, only the Primary Dwelling will count as a dwelling unit.
- I. A lot with a Primary Dwelling Unit and an Accessory Dwelling Unit must meet the floor-area-ratio requirements in Table 5.1. The gross floor area of both the Primary Dwelling Unit and the Accessory Dwelling Unit will count towards calculating the floor area ratio.
- J. The Accessory Dwelling Unit cannot have a gross floor area larger than 8% of the total lot area on the lot.
- K. The gross floor area of an Accessory Dwelling Unit (including any additions) shall not exceed eight hundred (800) square feet.
- L. Once an Accessory Dwelling Unit has been added to a Detached Single Family Dwelling or Detached Single Family Dwelling lot, the Accessory Dwelling Unit shall never be enlarged beyond the eight hundred (800) square feet or 8% of the lot area, whichever is smaller.

- M. An Accessory Dwelling Unit may not be occupied by more than three (3) people or have more than two bedrooms.
- N. One off-street parking space in addition to any parking required by Section 6.1 of this ordinance for the Primary Dwelling Unit must be provided for each bedroom in an Accessory Dwelling Unit. Property owners must provide one off-street parking space for studio-sized Accessory Dwelling Units. In order to maintain the appearance of a single-family neighborhood, all parking spaces on the lot shall be subject to the following conditions and requirements:
 - 1) The property must comply with all parking requirements set forth in Article VI of the Lowell Zoning Code.
 - 2) To grant the Special Permit, the ZBA must make a finding that the parking is sufficient but not excessive and the plan includes adequate landscaping and screening.
 - 3) There shall be no more than four outdoor parking spaces on the lot.
 - 4) Property owners may appeal to the ZBA to use stacked parking (compliant with 6.1.1 (5)) provided that they can prove that the requirements are excessive and not detrimental to their specific property.
 - 5) Parking on the lot shall comply with all other provisions of the Zoning Ordinance including required layout and size provisions.
- O. The lot must meet the Landscaped Open Space requirement of Section 5.3.1 of the Ordinance or be brought into compliance with this Section before an Accessory Dwelling Unit Special Permit can be granted.
- P. The Accessory Dwelling Unit may be inside the existing structure, above or connected with a detached garage, or fully detached.
- Q. A detached Accessory Dwelling Unit or an Accessory Dwelling Unit within a detached garage may meet the setbacks for an accessory structure in Section 4.3.5(4), if the structure meets the floor area and lot area requirements of that section. Otherwise, it must comply with the setbacks in Section 5.1 of this Ordinance.
- R. Additions to primary or accessory structures and new structures shall be of similar materials, style and color to the primary structure on the lot.
- S. If a lot has an Accessory Dwelling Units, only residential uses will be allowed on the lot:
 - 1) No other uses, except a home occupation allowed under Section 4.3.3, will be allowed on the lot.
 - 2) Renting of rooms or furnishing of table board for roomers or boarders under the provisions of Section 4.3.5(1) shall not be allowed.

8.4.3 Administration and Enforcement:

- 1. Construction of an Accessory Dwelling Unit in an existing or planned Detached Single Family Dwelling in SSF, TSF, or USF Districts shall be permitted upon issuance of a ZBA Accessory Dwelling Unit Special Permit ("Accessory Dwelling Unit Special Permit"). Accessory Dwelling Unit Special Permits shall be administered through the special permit process outlined in Section 11.3 Accessory

Dwelling Unit Special Permits can only be filed by Detached Single Family Dwelling Unit owner-occupants. The Accessory Dwelling Unit Special Permit Application must include the following:

- A. Proof of owner-occupancy with a notarized letter stating that the owner will occupy one of the dwelling units on the premises as the owner's primary residence.
 - B. Floor plans, drawn to scale, of the dwelling to be created and the structure where it is to be located.
 - C. An off-street parking plan.
 - D. If exterior changes are proposed, applicant must provide an elevation or other visual representation of the facade to be changed sufficient to show the architectural character of the dwelling.
2. Owners-occupants of Detached Single Family Dwellings in SSF, TSF, or USF Districts completed and occupied prior to the date of enactment of the Accessory Dwelling Unit ordinance ("date of enactment") who have an Accessory Dwelling Unit under construction on the date of enactment must adhere to the procedure outlined in 8.4.3.a (above). Accessory Dwelling Unit Special Permit Applications for Accessory Dwelling Units in construction on the date of enactment must be submitted within 6 months of the date of enactment. Any construction in progress on the date of enactment should be discontinued until the owner-occupant receives a ZBA Accessory Dwelling Unit Special Permit.
 3. Owner-occupants of pre-existing Accessory Dwelling Units in SSF, TSF, or USF Districts built before the date of enactment may apply to the ZBA for a Special Permit of Accessory Dwelling Unit Compliance. Special Permit of Accessory Dwelling Unit Compliance Applications must be submitted within 6 months of the date of enactment. Special Permit of Accessory Dwelling Unit Compliance Application must include the following:
 - A. A Certificate of Compliance from the Building Commissioner to certify that the pre-existing Accessory Dwelling Unit meets all requirements outlined in the Accessory Dwelling Unit Ordinance and relevant building codes.
 - B. Proof of owner-occupancy with a notarized letter stating that the owner will occupy one of the dwelling units on the premises as the owner's primary residence.
 - C. Proof that construction of the Accessory Dwelling Unit was completed prior to the date of enactment.

The ZBA will issue Special Permits of Accessory Dwelling Unit Compliance to all owners of pre-existing Accessory Dwelling Units who submit both a Building Commissioner's Certificate of Compliance and reasonable proof of owner-occupancy and construction completion.

4. No building shall be constructed or changed in use or configuration without a permit from the Building Commissioner. No Accessory Dwelling Unit shall be occupied until a certificate of occupancy has been issued by the Building Inspector.

5. Projects with all necessary permits dated before an amendment is passed that begin construction or use within six months of the date on their most recent permit will be exempt from amendments passed after the date of their most recent permit. To qualify for this exemption, construction must be completed in a continuous and expeditious manner.
6. When a Primary Dwelling Unit with an Accessory Dwelling Unit Special Permit changes ownership, the new owner(s) must apply for a permit transfer into their name if they wish to continue use of the Accessory Dwelling Unit. To receive a transfer, the new owner(s) must submit a notarized letter to the Building Commissioner within 30 days stating that they will occupy one of the dwelling units on the premises as their primary residence. The Zoning Board of Appeals may request a Building Commissioner Certificate of Compliance if the original certificate of occupancy was issued more than five years before the permit transfer application. The transfer of the Special Permit shall not be arbitrarily withheld by the Zoning Board of Appeals.

Under Section 6.1.4 add a new subsection k:

	Zone	Min. Parking Req.	Notes		Weekdays 8AM – 5PM	Weekdays 6PM – 12AM	Weekdays 12AM – 6AM	Weekends 8AM – 5PM	Weekends 6PM – 12AM	Weekends 12AM – 6AM
<u>1. RESIDENTIAL USES</u>										
k. Single-family detached dwelling with accessory dwelling unit, subject to the regulations of Section 8.4 of this Ordinance	SSF, TSF, USF	2 spaces per primary dwelling unit (du) and 1 space per accessory dwelling unit (ADU) bedroom	plus 2 spaces for each curb cut above one		60	100	80	100	100	100

Under ARTICLE XII: TABLE OF USES, Section 12.2, add new subsection d:

District Type:	Suburban				Traditional Neighborhood					Urban				Special Purpose			Industrial	
Districts:	SSF	SMF	SMU	RR	TSF	TTF	TMF	TMU	NB	USF	UMF	UMU	DMU	HRC	INST	OP	LI	GI
<u>12.2 CONVERSION OF DWELLING STRUCTURES</u>																		
d. Existing single family detached dwelling converted to single family dwelling unit and accessory dwelling unit subject to the provisions of Section 8.4.	SP	N	N	N	SP	N	N	N	N	SP	N	N	N	N	N	N	N	N

Under ARTICLE XIII: TABLE OF ACCESSORY USES, delete ‘n’ in its entirety and replace with new subsection ‘n’:

District Type:	Suburban				Traditional Neighborhood					Urban				Special Purpose			Industrial	
Districts:	SSF	SMF	SMU	RR	TSF	TTF	TMF	TMU	NB	USF	UMF	UMU	DMU	HRC	INST	OP	LI	GI
ACCESSORY USES																		
n. The allowed occupation of a subordinate unit (accessory dwelling unit) in a detached, single family dwelling, subject to the provisions of Section 8.4	SP	N	N	N	SP	N	N	N	N	SP	N	N	N	N	N	N	N	N